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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the matter of Amendments to Uniform System of Accounts for Interconnection	CC Docket No. 97-212

COMMENTS OF AMERITECH ON NOTICE OF PROPOSED RULEMAKING

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Summary

Ameritech agrees with the NPRM that no new accounts are needed for infrastructure sharing, but asserts that the Commission should have reached the same conclusion for competitive interconnection as well. The proposed new Part 32 accounts and subsidiary record-keeping requirements are inconsistent with the original historical purpose of the Uniform System of Accounts as a system organized along functional lines, rather than according to specific services. Also, they are unnecessary to promote or monitor competitive interconnection. Moreover, the proposals made in the NPRM would compromise the functions that have been committed to the respective state commissions under the Eighth Circuit's interpretation of the provisions of the Telecommunications Act of 1996 relating to interconnection for local competition. Even assuming the need for uniformity and monitoring, the Commission can achieve the same end by providing guidance to carriers on the appropriate existing Part 32 accounts to use. Accordingly, the rules proposed in the NPRM should not be adopted.

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In its Notice of Proposed Rulemaking in this docket,[1] the Commission has taken up the question of the accounting treatment of transactions related to competitive interconnection and shared infrastructure under the Telecommunications Act of 1996. Although the NPRM tentatively concludes that new accounts are not necessary for the sharing of infrastructure, it proposes to establish new Part 32 accounts and subsidiary recordkeeping requirements for competitive interconnection.

Ameritech[2] agrees that no new accounts are needed for infrastructure sharing, but asserts throughout these Comments that the

[1] Release-Number FCC 97-355, released October 7, 1997 [hereinafter "NPRM" or "Notice"].

[2] The Ameritech affiliates subject to Part 32 are Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell

(Footnote Continued . . .)

same finding should have been made for competitive interconnection as well. The proposed new accounts would be of no significance or use, and would be contrary to the functional nature of Part 32. The proposals are a throwback to cost of service regulation and far exceed what is required by Sections 251 and 252 of the Act. To the extent the goals underlying the proposals have any legitimacy, the existing Part 32 structure should be used.

I. The Proposed New Accounts and Recordkeeping Rules Would Not Advance the Commission's Goals.

The Commission states in the NPRM that the new accounts and requirements it has proposed for interconnection are intended to meet four specific goals:[3] (1) uniform reporting among ILECs, (2) Commission monitoring of competition and the deployment of advanced tele-

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(Footnote Continued . . .)

Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc., collectively hereinafter referred to as "Ameritech."

[3] In the NPRM (¶ 6) it is said [footnotes omitted]: "These proposed accounts and subsidiary recordkeeping requirements are intended to achieve the following goals: (1) to facilitate uniform reporting among ILECs with respect to interconnection and infrastructure sharing arrangements; (2) to enable the Commission to monitor and assess the economic impact of the development of local exchange and exchange access competition and the deployment of advanced telecommunications capabilities; (3) to ensure that regulated ratepayers do not bear the costs of ILECs' competitive activities; and (4) to assist Commission decisionmaking concerning ILEC petitions for forbearance from regulation pursuant to section 10 of the Act by making information concerning ILEC performance related to these services accessible and verifiable. We tentatively conclude that the proposed accounts will provide the Commission with useful information without imposing undue burdens on carriers."

communications (3) ensuring that there is no cross-subsidy between regulated and competitive activities, and (4) evaluation of ILEC forbearance petitions. Ameritech believes, however, that the pursuit of such goals by the Commission at this time is not necessary in the wake of the Eighth Circuit's recent *Iowa Utilities* decision,[4] where the Court unambiguously held, "[W]e believe that the 1996 Act, when coupled with section 2(b) [of the 1934 Act], mandates that the *states* have the *exclusive* authority to establish the prices regarding the local competition provisions of the Act."[5]

Moreover, under the Commission's specific proposals, its own goals would not be achieved. This is because there is a fundamental incongruity between the broad goals said to underlie the proposals and the actual proposals themselves. Under the Telecommunications Act of 1996, the Commission should be relentlessly moving towards deregulation, but regrettably the NPRM proposes to pile on ever more detailed layers of accounting and reporting.

A. Uniform Reporting Among Local Exchange Carriers.

Even the very first of the Commission's goals — uniform reporting among local exchange carriers — is subject to question in the light of the *Iowa Utilities* decision. Even putting that decision aside, however,

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[4] Iowa Utilities Board v. FCC, 120 F.3d 753 (8th Cir. 1997)

[5] *Id.*, 120 F.3d at 796 [emphasis added].

uniform reporting among carriers can be achieved using the *existing* Part 32 account structure and any necessary Commission guidance (See Section II).

B. *Monitoring of Competition and the Deployment of Advanced Telecommunications*

The second of the NPRM's stated goals — the monitoring of competition and the deployment of advanced telecommunications — is likewise an insufficient basis for the rules the Commission proposes to adopt. There are alternative and more appropriate means to monitor and assess competition, such as tabulating the number of competitive certifications, which is both quantifiable and measurable.

C. *Elimination of Cross-Subsidy Between Regulated and Competitive Activities*

The third of the Commission's stated goals — the prevention of cross-subsidy between regulated and competitive activities — also seems particularly misplaced in this context. Concern has always been expressed concerning the simultaneous provision of competitive services and rate-regulated monopoly services by the same carrier, the fear being that such a carrier might be motivated to shift costs from the competitive service to the monopoly service. But these dangers of cross-subsidy were always limited to the case of so-called "captive" monopoly customers — a rapidly dwindling population, certainly, under the Telecommunications Act of 1996. Besides, even if the

prevention of cross-subsidy is still regarded as a primary concern, it is one that is adequately addressed elsewhere in the Commission's rules, and further improvements are unlikely to be achieved by an expansion of the Uniform System of Accounts.

D. Evaluating Forbearance Petitions

With respect to the goal of assisting the Commission in evaluating forbearance petitions by making ILEC performance accessible and verifiable, both measures of evaluation are available without establishing new accounts. For example, the Commission has plenary audit authority and recently adopted extensive audit requirements pertaining to BOC performance under Section 272 of the Act.[6] The audit results will ascertain whether the ILEC's performance is accessible and verifiable, eliminating the need for new Part 32 accounts. In addition, evaluation of ILEC performance is available through a review of state certifications.

E. Carrier Burden

Finally, the NPRM's tentative conclusion that these goals will be met and that useful information will be provided to the Commission with no carrier burden is incorrect. While establishing new Part 32 accounts in and of itself is no significant burden, more to the point,

[6] *See* Section 53.209, Biennial Audit.

ILEC cost studies based on Part 32 would provide useless and misleading results (See Section III). Also, the modification of customer billing systems to accommodate the new account structure and subsidiary recordkeeping requirements is not a costless exercise.

II. The Proposed New Account 5071 is Not Needed.

The NPRM proposes (in ¶ 8) to establish a new Part 32 revenue account — Account 5071 (Interconnection and access to unbundled network elements) — to record all revenues received by an ILEC from competing local exchange carriers, interexchange carriers, and any other carriers for providing interconnection and access to unbundled network elements pursuant to Sections 251(c)(2) and 251(c)(3). Ameritech states, however, that this account is quite unnecessary and also violates the principles of Part 32, which was designed as an historical, functional system. In fact, these original principles underlying Part 32 are clearly stated right in the NPRM itself (¶ 4, footnotes omitted, italics in original):

> Part 32 accounts do not reflect an *a priori* allocation of revenues, investments, or expenses to products, services, or jurisdictional structures. Rather, the accounts are intended to reflect a functional and technological view of the telecommunications industry. For example, expenditures for cable are organized by technological distinctions, such as whether they are aerial, underground, or buried, but not whether they are used to provide local exchange or exchange access services.

The proposed new accounts, being specific to particular services, are therefore contrary to the long-standing philosophy embodied in the rest of USOA.

Alternatively, Ameritech supports the proposal put forward by the United States Telephone Association to use the existing Part 32 account structure to track interconnection revenues, as explained in the letter dated December 19, 1996, from Mr. Porter Childers of USTA to Mr. Kenneth Ackerman of the Commission.[7] Even if it is assumed that there is a need here for uniformity, such uniform reporting can be achieved *without* adding additional detail and reporting requirements to Part 32. As USTA has recommended, the Commission can provide guidance on the appropriate Part 32 accounts that should be used to record competitive interconnection revenues. With respect to subsidiary recordkeeping requirements, companies should be allowed to use whatever tracking mechanisms their systems can efficiently accommodate whether they be subaccounts, billing codes, or other means. So long as the revenues and expenses are identifiable, no new accounts or recordkeeping requirements should be imposed. Specifi-

[7] *See also* Petition for Reconsideration of NECA in the Local Competition Order (filed Sept. 26, 1996) at p. 3: "The Commission should clarify into which Part 32 account(s) revenues from unbundled network elements, provided via interconnection agreements should be booked. After considering suggestions from interested parties, the Commission may determine, for example, that these revenues could be booked into account 5240, Rent Revenues."

cally, Account 5240, Rent Revenue, can be used in place of the Commission's proposed new accounts, Account 5071, Interconnection and access to unbundled network elements, and Account 5072, Transport and termination revenue. The existing part 32 expense account, Account 6540, Access Expense, can be used in place of the Commission's proposed accounts, Account 6551, Interconnection and access to unbundled network elements, Account 6552, Transport and termination expense, and Account 6553, Purchased telecommunications service expense.

Use of the existing Part 32 account structure as proposed by USTA will also enable the carriers to remove from Part 36 Separations results an amount equal to total unbundled network element revenues, *i.e.*, directly assign revenues to the intrastate jurisdiction.[8]

III. The Proposed Subsidiary Recordkeeping Requirements for the Costs of Providing Interconnection Should Not Be Adopted.

The NPRM (¶ 14) also proposes a particularly onerous requirement to develop cost studies based on the regulated books of account and to reflect state arbitrated agreements in these cost studies. This proposal is a wholly unnecessary regulatory overlay that far exceeds any measure of reasonableness and should not be adopted.

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[8] See Ameritech's comments in CC Docket 80-286 filed December 10, 1997, at p. 18.

Restating cost studies using the regulated books of account after conducting and gaining state approval for rates based on forward looking cost studies which do not use the regulated books of account would be prohibitively expensive, redundant, and of no use. There have been, after all, over 150 negotiated agreements and there are over 200 elements based on forward-looking costs in the Ameritech region alone. The cost studies would be of no use in monitoring or assessing competition, and as such would not meet the stated goals of this proceeding. In addition, the cost studies would be tantamount to establishing a Part 64-like process for interconnection which exceeds any regulatory need.

Finally, the proposed requirement is not called for by any possible reading of Sections 251 and 252 of the Act. In fact, it would violate those sections by usurping the functions of the states in setting the parameters of cost studies as enunciated in the Eighth Circuit's decision, where it has been said unmistakably:[9]

> Allowing competing telecommunications carriers to have direct access to an incumbent local exchange carrier's established network in order to enable the new carrier to provide competing general local telephone services is an intrastate activity even though the local network thus invaded is sometimes used to originate or complete interstate calls.

[9] Iowa Utilities Board, *supra* note 4, 120 F.3d at 799.

The prescription by this Commission of subsidiary recordkeeping requirements relating to this intrastate activity would be in direct violation of this ruling.

Finally, the proposed subsidiary recordkeeping requirement is a throwback to rate-of-return regulation, contrary to Section 252(d)(1)(A).

IV. No New Part 32 Accounts Are Needed for Infrastructure Sharing.

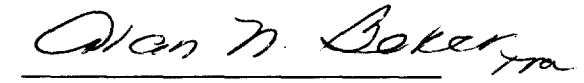
The NPRM tentatively concludes (¶¶ 15, 16) that no new Part 32 accounts are necessary for infrastructure sharing because the rules adopted rely on negotiated agreements, the agreements have existed for many years, and the services offered do not affect competitors. While the interconnection agreements have not existed for many years, they do rely on negotiated agreements, and the Commission should therefore adopt the same minimal regulatory oversight with respect to these agreements and not adopt new accounts and reporting requirements.

Ameritech also supports the tentative conclusion that new accounts or subsidiary recordkeeping for other aspects of the Act are not necessary. Again, Part 32 was developed as a historical, functional system and not based on service specific categorization.

V. Conclusion

The new accounts and subsidiary recordkeeping requirements proposed in the NPRM should not be adopted. Rather, the current Uniform System of Accounts in Part 32 of the Rules is sufficient. Carriers should be allowed to use whatever mechanism best fits their systems. The Commission should be moving toward deregulation, and not hampering selected players in the competitive telecommunications market with unnecessary, costly, and useless data collection and reporting.

Respectfully submitted,



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